

**8.605 Exceptions.**

Purchase from FPI is not mandatory and a waiver is not required if—

- (a)(1) The contracting officer makes a determination that the FPI item of supply is not comparable to supplies available from the private sector that best meet the Government's needs in terms of price, quality, and time of delivery; and
- (2) The item is acquired in accordance with 8.602(b)(4);
- (b) Public exigency requires immediate delivery or performance;
- (c) Suitable used or excess supplies are available;
- (d) The supplies are acquired and used outside the United States;
- (e) Acquiring listed items totaling \$2,500 or less;
- (f) Acquiring items that FPI offers exclusively on a competitive (non-mandatory) basis, as identified in the FPI Schedule; or
- (g) Acquiring services.

[69 FR 16149, Mar. 26, 2004, as amended at 70 FR 18958, Apr. 11, 2005]

**8.606 Evaluating FPI performance.**

Agencies shall evaluate FPI contract performance in accordance with subpart 42.15. Performance evaluations do not negate the requirements of 8.602 and 8.604, but they may be used to support a waiver request in accordance with 8.604.

**8.607 Performance as a subcontractor.**

Agencies shall not require a contractor, or subcontractor at any tier, to use FPI as a subcontractor for performance of a contract by any means, including means such as—

- (a) A solicitation provision requiring a potential contractor to offer to make use of FPI supplies or services;
- (b) A contract specification requiring the contractor to use specific supplies or services (or classes of supplies or services) offered by FPI; or
- (c) Any contract modification directing the use of FPI supplies or services.

**8.608 Protection of classified and sensitive information.**

Agencies shall not enter into any contract with FPI that allows an inmate worker access to any—

- (a) Classified data;
- (b) Geographic data regarding the location of—
  - (1) Surface and subsurface infrastructure providing communications or water or electrical power distribution;
  - (2) Pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or
  - (3) Other utilities; or
- (c) Personal or financial information about any individual private citizen, including information relating to such person's real property however described, without the prior consent of the individual.

### **Subpart 8.7—Acquisition From Nonprofit Agencies Employing People Who Are Blind or Severely Disabled**

**8.700 Scope of subpart.**

This subpart prescribes the policies and procedures for implementing the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c), referred to in this subpart as “the JWOD Act,” and the rules of the Committee for Purchase from People Who Are Blind or Severely Disabled (41 CFR chapter 51).

[59 FR 67027, Dec. 28, 1994]

**8.701 Definitions.**

As used in this subpart—

*Allocation*, means an action taken by a central nonprofit agency to designate the JWOD participating nonprofit agencies that will furnish definite quantities of supplies or perform specific services upon receipt of orders from ordering offices.

*Central nonprofit agency*, means National Industries for the Blind (NIB), which has been designated to represent people who are blind; or NISH, which has been designated to represent JWOD participating nonprofit agencies serving people with severe disabilities other than blindness.

*Committee*, means the Committee for Purchase from People Who Are Blind or Severely Disabled.

*Government or entity of the Government* means any entity of the legislative or judicial branch, any executive